

LEWIS BRISBOIS BISGAARD & SMITH LLP

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Attorneys for Defendant

Teck Cominco Limited

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CARLETTA JUSTICE, a minor, and

YOLANDA JUSTICE, a minor, by and through

their guardian ad litem, BOBBY BROWN,

Plaintiffs,

v.

DOES 1 TO 500, inclusive

Defendants.

) CASE NO. 06-CV-3328-MHP

) **DEFENDANTS TECK COMINCO**
) **LIMITED'S REQUEST FOR LEAVE TO**
) **FILE RULE 12 MOTIONS AND**
) **PROPOSED ORDER**

REQUEST FOR LEAVE OF COURT

COME NOW Defendant, TECK COMINCO LIMITED, by and through its attorneys, LEWIS BRISBOIS BISGAARD & SMITH, LLP., and respectfully requests, pursuant to this Honorable Court's Standing Order Number 4, leave to file its Federal Rule of Civil Procedure 12(b)6 and 12(e) motions in response to plaintiffs CARLETTA JUSTICE and YOLANDA JUSTICE's Complaint on the basis that said Complaint fails to state facts sufficient to establish any cause of action or cognizable legal theory against Defendant TECK COMINCO LIMITED.

1 Respectfully submitted,

2 DATED: June 5, 2006

LEWIS BRISBOIS BISGAARD & SMITH LLP

3
4
5 By



6 PAUL A. DESROCHERS

Attorneys for Defendants

7 Teck Cominco American Incorporated and Teck Cominco

8 Advanced Materials Incorporated

9 **ORDER**

10 This court hereby grants the request of Defendant TECK COMINCO LIMITED for leave
11 to file its motions pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(e).

12 Dated: July 26, 2006

13
14 THE HONORABLE MARILYN HALL



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DOES 1 TO 500, inclusive

Defendants.

CASE NO. 06-CV-3328-MHP

**(PROPOSED) ORDER GRANTING
DEFENDANT TECK COMINCO
LIMITED'S MOTION TO DISMISS
PURSUANT TO F.R.C.P. 12(B)(6)**

Date: July 17, 2006

Time: 2:00 p.m.

Dept.: 15

Good cause appearing therefore based on this court's ruling that Plaintiffs CARLETTA JUSTICE and YOLANDA JUSTICE, through their guardian ad litem, BOBBY BROWN have failed to state facts sufficient to establish any cause of action or cognizable legal theory against defendant TECK COMINCO LIMITED.

This court hereby grants the motion of Defendant TECK COMINCO LIMITED pursuant to Federal Rule of Civil Procedure 12(b)(6) with prejudice and without leave to amend.

Dated: _____

THE HONORABLE MARILYN HALL PATEL

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Attorneys for Defendants

Teck Cominco American Incorporated and

Teck Cominco Advanced Materials Incorporated

UNITED STATES DISTRICT COURT

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Plaintiffs,

v.

DOES 1 TO 500, inclusive

Defendants.

) CASE NO. C06-3328 MHP

) **CERTIFICATE OF SERVICE OF NOTICE**
) **OF TECK COMINCO LIMITED'S**
) **REQUEST FOR LEAVE TO FILE RULE 12**
) **MOTIONS AND PROPOSED ORDER**

I, TERRI WONG, certify and declare as follows:

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is One Sansome Street, Suite 1400, San Francisco, CA 94104, which is located in the city, county and state where the mailing described below took place.

On June 5, 2006, I deposited with the United States Postal Service at San Francisco, California, a true and correct copy of the following documents:

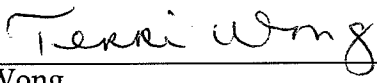
TECK COMINCO LIMITED'S REQUEST FOR LEAVE TO FILE RULE 12
MOTIONS AND PROPOSED ORDER

1 on the interested parties in this matter as follows:

2 Clayton W. Kent
3 Brayton Purcell, LLP
4 222 Rush Landing Road
Novato, CA 94948-6169

Attorneys for Plaintiffs CARLETTA
JUSTICE and YOLANDA JUSTICE

5 I declare under penalty of perjury under the state and federal laws of the State of California
6 that the foregoing is true and correct and that I am employed in the office of a member of the bar
7 of this Court at whose direction the service was made. Executed on June 5, 2006, at San
8 Francisco, California.

9
10 
Terri Wong

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